



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,017	07/16/2003	David Heller	APL1P288/P3054	1693
22434	7590	05/16/2006	EXAMINER	
BEYER WEAVER & THOMAS LLP			MEUCCI, MICHAEL D	
P.O. BOX 70250				
OAKLAND, CA 94612-0250			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/622,017	HELLER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael D. Meucci	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 February 2006.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-42 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. This application has been reassigned to Michael Meucci.
2. This action is in response to the Request for Continued Examination (RCE) filed 28 February 2006.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 15-26 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 15-26 recited the limitation "computer readable medium" which is not limited to statutory subject matter. Paragraph [0056] on page 14 of the specification discloses: "The computer readable medium is any data storage device that can store data which can thereafter be read by a computer system. Examples of the computer readable medium include read-only memory, random-access memory, CD-ROMs, DVDs, magnetic tape, optical data storage devices, and carrier waves." Carrier waves are not considered statutory subject matter. Correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4-9, 11-12, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent (The Complete Idiot's Guide to the Internet) in view of Gross III et al (US 20020026446).

a. In regards to claim 1, Kent teaches of: (a) accessing, by a second application program, a data communication file provided by a first application program (p. 267, lines 1-2); producing a user interface on the display using data internal to the data communication file (p. 267, fig. 1 9.1 );(c) receiving a user selection with respect to the user interface (p. 268, line 4); (d) identifying a media content file associated with the user selection (p. 268, line 4); (e) associating a media content file identified by the user selection to the second application program (p. 268, lines 5-6). Kent does not explicitly teach of utilizing a database and the data communication file being derived from the database data. In an analogous art, Gross III teaches of utilizing database data and the data communication file being derived (obtained) from the database data such that data internal to the data communication file is acquired from the database data (Paragraph [0028, 0029]). It would have been obvious to one of ordinary skill in the arts at the time of invention to incorporate the above teachings because the inventions are analogous art (file sharing system). One of ordinary skill in the arts at the time of invention would have been motivated for the reasons discussed by Gross (Paragraph [0003,-005]).

Art Unit: 2142

b. In regards to claims 2, 4-9, 11-12, the rejections were set forth in a previous office action mailed on 5/06/2005.

c. In regards to claim 39, Kent does not explicitly teach of the limitations. Gross teaches of wherein the first application program and the second application program operate on the same computer (fig 1, item 160), wherein the application programs are item 165, 185. See claim 1 for motivation.

7. Claims 10, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of in view of Gross III as applied above to claim 1, and further in view of Book (2003/0223566).

a. In regards to claims 10, the rejections were set forth in a previous office action mailed on 5/06/2005.

b. In regards to claim 41, Gross teaches of wherein the data communication file is automatically produced by the first application program (Paragraph [0028, 0029]). See claim 1 for motivation.

8. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of in view of Gross III in view of Book as applied above to claim 41, and further in view of Carter.

In regards to claim 42, none of the above references explicitly teach of the limitations. In an analogous art, Carter teaches of the first application program automatically updates the database data communication file when the database data

Art Unit: 2142

utilized by the first application program changes (col. 11, lines 15-35). See claim 15 for motivation.

9. Claims 3, 13-14, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of Gross III as applied above to claim 1, and further in view of Griner (6,614,729).

a. In regards to claims 3, 13-14, the rejections were set forth in a previous office action mailed on 5/06/2005.

b. In regards to claim 40, Griner teaches of the first application program is a media management application (col. 6, lines 53-58). The motivation was set forth in a previous office action mailed on 5/06/2005.

10. Claims 15, 17-19, 21-22, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent (The Complete Idiot's Guide to the Internet) in view of Carter et al (5987506).

a. In regards to claim 15, Kent teaches of: computer program code for accessing, by a second program, a data communication file provided by a first program (p. 267, lines 1-2); computer program code for producing a user interface using data from the data communication file (p. 267, fig. 19.1); computer program code for receiving a user selection with respect to the user interface (p. 268, line 4); computer program code for identifying a media content file associated with the user selection (p. 268, line 4). And computer program code for associating a media content file

Art Unit: 2142

identified by the user selection to the second program (p. 268, lines 5-6). Kent does not explicitly teach of a data communication file that is automatically produced. In an analogous art, Carter teaches of automatically creating a data communication file (col. 23, lines 15-20). It would have been obvious to one of ordinary skill in the arts to incorporate the above teachings because the inventions are analogous art (relates to remote accessing of data). One of ordinary skill in the arts at the time of invention would have been motivated because the above modifications would result in an improved fault tolerant network systems, which is desirable as discussed by Carter (col. 2, lines 40-65).

- b. In regards to claims 17-19, 21-22, 26, the rejections were set forth in a previous office action mailed on 5/06/2005.
11. Claims 16, 23-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of in view of Carter as applied above to claim 15, and further in view of Carter et al (5987506).

In regards to claims 16, 23-25, the rejections were set forth in a previous office action mailed on 5/06/2005.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of in view of Carter as applied above to claim 15, and further in view of Book (2003/0223566).

In regard to claim 20, the rejections were set forth in a previous office action mailed on 5/06/2005.

13. Claims 27-31, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of Griner (6,614,729).

In regards to claims 27-31, 33-35, the rejections were set forth in a previous office action mailed on 5/06/2005.

14. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of Griner as applied to claim 27 above, and further in view of Book.

In regards to claims 32, the rejections were set forth in a previous office action mailed on 5/06/2005.

15. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of Griner as applied to claim 27 above, and further in view of Kronick (Netscape Navigator).

In regards to claims 36 and 37, the rejections were set forth in a previous office action mailed on 5/06/2005.

16. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kent in view of Griner as applied to claim 27 above, and further in view of Buswell (6,836,885).

In regards to claim 38, the rejections were set forth in a previous office action mailed on 5/06/2005.

***Response to Arguments***

17. Applicant's arguments filed 28 February 2006 have been fully considered but they are not persuasive.

18. (A) Regarding claim 1, the applicant contends that Kent does not teach the accessing operation of claim 1. The examiner respectfully disagrees.

As to point (A), the applicant argues that Kent merely indicates that a directory link can be clicked-on to display another Web document that shows the contents of that directory. The applicant also argues that the data communication file is a specific type of electronic file that is produced to exchange media between different application programs, and that database data is provided in a proprietary format and thus not typically usable by other application programs. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 2142

19. (B) Regarding claim 1, the applicant contends that Kent does not teach that any of the files being transferred using FTP would be accessed to utilize their internal data. The examiner respectfully disagrees.

As to point (B), the applicant argues that the transfer of electronic files over the Internet using the FTP protocol as disclosed in Kent is not a means for sharing data between application programs as recited in claim 1. In response to applicant's arguments, the recitation of "sharing data" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

20. (C) Regarding claim 1, the applicant contends that Groos is not able to overcome the deficiencies of Kent. The examiner respectfully disagrees.

As to point (C), the applicant argues that Groos does not teach deriving a data communication file from the database data. As cited in the advisory action mailed 25 January 2006, Groos does teach this limitation in paragraphs 28-29 with proper motivation. The "data internal to the data communication file" being "acquired from the database data" is inherent in Groos because this includes data such as the filename.

Art Unit: 2142

21. (D) Regarding claim 15, the applicant argues that there is nothing in Kent that teaches or suggests use of a data communication file that was automatically produced by one program so that another program is able to access the data in the data communication file. The examiner respectfully disagrees.

As to point (D), the examiner points to the discussion of this matter in the advisory action mailed 25 January 2006, which notes that a web server automatically serves a web page file because it does so without human intervention. As such, a data communication file is clearly shown in Kent. As such, the examiner maintains this rejection.

22. (E) Regarding claim 27, the applicant contends that the references of record do not show the first application program and second application program operating on the same computer system. The examiner respectfully disagrees.

As to point (E), the examiner notes that the applicant has not appropriately defined "computer system" such that it is limited to a single computer. The "computer system" as defined can be considered any group of computers working within a system, such as but not limited to LANs, WANs, and other networks. The examiner points out that if the claims are amended to recite the two programs on a single computer, these limitations can be easily found by incorporating virtual servers on a single computer.

23. (F) The applicant's remaining arguments are directed towards matters discussed above in points (A)-(E).

***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ham et al. (U.S. 6,988,101 B2) discloses accessing a foreign file system from a local data processing system.

Dellarocas et al. (U.S. 7,017,146 B2) discloses representing a software system and generating executables from software system descriptions

Kapczynski et al. (U.S. 7,039,655 B2) discloses providing digital media supply chain operation systems and sharing files.

Hoffman et al. (U.S. 7,039,606 B2) discloses sharing resources in a database system.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

Art Unit: 2142

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Beatriz Prieto*  
BEATRIZ PRIETO  
PRIMARY EXAMINER